

**MISSOURI STATE AUDITOR'S OFFICE  
FISCAL NOTE (22-010)**

**Subject**

Initiative petition from Ryan Meyer regarding a proposed constitutional amendment to Article I. (Received January 19, 2021)

**Date**

February 8, 2021

**Description**

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2022.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, the **Kansas City Board of Police Commissioners**, the **Metropolitan Police Department - City of St. Louis**, **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest**

**Missouri State University, Southeast Missouri State University, and Truman State University.**

## **Assumptions**

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no fiscal impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact to their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated Section 29(d) will significantly impact the operations of the correctional facilities. Section 105.585 currently requires any labor agreement negotiated with a public body prohibit strikes and picketing of any kind, which may conflict with this proposal. If this section passes, their department would have to restrict all operations within prisons to ensure the safety of staff, offenders, and the institution as a whole. It is unknown what the fiscal impact could be at this time.

The restrictions to operations within prisons would be only during a strike/picketing situation.

The nature of restrictions would likely be restricted to no offender movement within the facility due to staffing shortage generated by a strike. This would impact food service,

medical, programming, etc. Any potential impact would largely be driven by the duration of the restrictions. Potential fiscal impacts could be anything from needing to contract for food service operations to temporary staffing costs to outside healthcare costs. Those costs are unknown.

Officials from the **Department of Labor and Industrial Relations** indicated the State Board of Mediation (SBM) identifies who is considered a public employee for purposes of creating a bargaining unit and administers procedures for certifying the bargaining unit pursuant to sections 105.500 – 105.598. The proposed amendment specifies that no statute can restrict or interfere with the method, means, or process of deliberation or certification of any collective bargaining agreement. In essence, the SBM was created to facilitate the deliberations and certifications of bargaining unit agreements. Thus, the proposed amendment to the constitution would effectively remove much of the SBM's purpose and authority.

Also, in *Janus v. Am. Fed'n of State, Cty., & Mun. Employees, Council 31*, the U.S. Supreme Court held that it was unconstitutional for non-union members to be forced to pay agency fees. 138 S. Ct. 2448, 201 L. Ed. 2d 924 (2018). The proposed amendment allows the union to "condition full collection of dues or other means of compensation directly from the employer[.]" This provision may be considered unconstitutional according to the *Janus* case in that it may be interpreted as allowing a union to collect fees from employees who do not wish to be represented by the union. However, the proposed amendment does contain a provision specifying that there would be deference to federal court opinions and federal law. Read in harmony, federal courts would be instructed to interpret this language in compliance with the *Janus* case.

Furthermore, certain statutory provisions would likely be deemed unconstitutional by the enactment of the proposed change. For example, section 105.858 specifies the terms to be included in public sector bargaining agreements (the injunction of this provision, as part of HB 1413, is currently pending before the Missouri Supreme Court).

The fiscal impact to their department/State Board of Mediation would be minimal.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of the proposal.

Officials from the **Department of Transportation** indicated this initiative petition is projected to have no fiscal impact on their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be \$7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates \$75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no effect on their budget.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated since the county currently has no collective bargaining agreements with its employees, this would have no fiscal impact on their county - no costs or savings.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jackson County** indicated no fiscal impact to their county as the county already has collective bargaining agreements with members of its workforce.

Officials from **St. Louis County** indicated the fiscal impact would be indirect - the costs related to paying overtime and for temporary employees if employees go on strike. Currently, public employees are prohibited from striking.

Officials from the **City of Kansas City** indicated 29(c) in this initiative petition could have a negative fiscal impact on their city because it requires the employer to pay a full collection of dues to the union. This provision appears to require the employer to pay the union the member's amount of dues regardless of whether the member has granted approval for a deduction of such dues from such member's paycheck.

Officials from the **City of St. Louis** indicated the City of St. Louis Department of Personnel is unable to determine if there is any potential fiscal impact of this proposed legislation because of the language in the proposal.

The City of St. Louis – Police Division does not supervise pay and benefit negotiations. However, providing police employees the right to strike would significantly increase the negotiating power for current members of bargaining units as well as expand the pool of employees eligible for union representation to include managerial employees. While existing union contracts in effect at passage would be honored, in the future there would be a cost for their city's management to have a no strike clause included in labor agreements. Section 29C suggests that if federal law states that employees in a bargaining class don't want to join the union that the employer would have to pick up the cost of "fair share" dues. This might cost \$50,000 per year.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated fiscal impact unknown. If they are reading it correctly, in 29C the cost of collective bargaining is paid by the employer. With 872 employees they have no way of knowing what something like that might cost.

Officials from **University of Missouri** indicated in the event that this proposed statute were interpreted to apply to the university, it is not possible to identify a significant fiscal impact at this time.

Officials from **University of Central Missouri** indicated there is potential for a negative fiscal impact. However, it is not possible to determine at this time. One area of consideration is the provision that states all employees. In their case, that would be the existing bargaining unit, all faculty, and all staff would have the right to collectively bargain.

Additionally, the provision allows the right to strike. In their case, that would be substantially impactful as they are a residential community. If employees strike, there is an unknown fiscal implication to that element alone.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jasper County, St. Charles County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, St. Louis Community College, the Kansas City Board of Police Commissioners, the Metropolitan Police Department - City of St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, and Truman State University.**

### **Fiscal Note Summary**

Local governmental entities estimate no savings and possible costs of an unknown amount totaling at least \$50,000. State governmental entities estimate no costs or savings.